

Court Order No. 89-368-05-08

PHYSICIAN SERVICES AGREEMENT

This Agreement is entered into on the 8th day of May, 1989, by and between Collin County, Texas, a political subdivision of the State of Texas ("County") and Dr. George W. Apple, Jr., a physician licensed to practice medicine in the State of Texas ("Dr. Apple").

RECITALS.

1. The County desires to assure the availability of Physician Services to certain residents of Collin County.
2. Collin County, Texas, has formed Collin County Health Care Foundation in order to assist it in providing health care services to certain of its residents by investing proceeds from the sale of Collin Memorial Hospital and paying for the costs of such health care.
3. Dr. Apple is willing to provide Physician Services in the practice area of Family Practice upon the terms and subject to the conditions set forth herein.

Therefore, under the authority of the Indigent Health Care and Treatment Act, Tex. Rev. Civ. Stat. Ann. art. 4438f (the "Act"), the parties agree as follows:

Section 1 -- Definitions.

- 1.01 Physician Services. The term "Physician Services" shall mean medically necessary services provided by a medical or osteopathic doctor in the doctor's office, a hospital, a skilled nursing home, or elsewhere, including

medically necessary laboratory and x-ray services provided to or on behalf of a patient by a qualified provider pursuant to Dr. Apple's orders. For the purposes of this Agreement, Physician Services shall include only those services in the practice area of Family Practice and shall not include maternity services.

1.02 Emergency Services. The term "Emergency Services" means those services that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide for the care of a woman in active labor.

1.03 Eligible Resident. The term "Eligible Resident" shall mean any person who (a) has been classified by the County as an indigent, and (b) is a resident of Collin County. This definition is adopted solely for the purpose of providing Physician Services under this Agreement to persons eligible for such services under the Act and does not constitute a definition of an Eligible Resident or Pauper for any other purpose. Persons eligible for Physician Services under the Medicaid or Medicare programs are not Eligible Residents for the purposes of this Agreement.

1.04 Eligibility Document. The term "Eligibility Document" shall mean the identification card, certificate, or other document issued by the County to an Eligible Resident as evidence of that person's eligibility for Physician Services.

- 1.05 Working Day. The term "Working Day" shall mean a normal working day, i.e., Monday through Friday of each calendar week, exclusive of federal and county holidays.
- 1.06 Mandated Provider. The term "Mandated Provider" means a provider of Physician Services selected by the County that agrees to provide Physician Services to Eligible Residents.
- 1.07 County Auditor. The term "County Auditor" means the Collin County Auditor, the person performing the duties of the County Auditor as provided in Tex. Rev. Civ. Stat. Ann. art. 1645, et seq.
- 1.08 Plan Administrator. The term "Plan Administrator" means the person employed by the Board of Trustees of the Collin County Health Care Foundation (the "Foundation") to administer the program to pay for health care services provided by Collin County.

Section 2 --Term.

- 2.01 Term. The term of this Agreement shall commence on the _____ day of _____, 1989, and shall continue in full force and effect until September 30, 1989.
- 2.02 Termination. Either party may terminate this Agreement by giving ninety (90) days written notice to the other party.

Section 3 -- License.

Dr. Apple shall at all times during the term of this Agreement maintain in full force and effect the license and the annual registration issued to him by the Texas State Board of Medical Examiners. Tex. Rev. Civ. Stat. Ann. art. 4495b.

Section 4 -- Services.

- 4.01 Services to be Provided. Dr. Apple agrees that he shall provide medically necessary Physician Services in the practice area of Family Practice, subject to the exclusions from and limitations on health care services listed in section 14.201 and section 14.202 of the rules promulgated under the Act, as they currently exist or may hereafter be amended, to all Eligible Residents who have been certified by the County as eligible for Physician Services. Dr. Apple agrees that in providing Physician Services under this Agreement which require the prescription of drugs, he will prescribe generic drugs whenever possible.
- 4.02 Medically Necessary Services. Dr. Apple agrees that any services billed to the County under this Agreement shall be medically necessary and provided during a time when Dr. Apple is a physician licensed by the State of Texas. Compliance with this section shall be certified in writing to the County with each bill for services.
- 4.03 When Services Requested Are Not Covered By This Agreement. If Dr. Apple is approached by a prospective patient who requests health care services that are not covered by this Agreement and who claims to be unable to pay for the services requested, Dr. Apple shall refer the patient to the proper Mandated Provider, or the appropriate provider designated by the County, unless it is medically inappropriate to do so.
- 4.04 Location of Office and Services. To the extent medically possible, services to be provided under this

Agreement shall be provided at Dr. Apple's office located at 1225 19th Street, Plano, Texas 75074. Dr. Apple agrees not to change the location of his office without prior notification to the County.

- 4.05 Referrals. For Eligible Residents seen by Dr. Apple who require more specialized treatment than is available in his office, or who require hospitalization, Dr. Apple shall contact the Health Care Services Department or the Indigent Health Care Program Medical Director to ensure referral to the appropriate Mandated Provider.

Section 5 -- Mandated Provider.

Dr. Apple agrees that he shall be a Mandated Provider pursuant to the Indigent Health Care and Treatment Act for the purposes of providing Physician Services under this Agreement to all Eligible Residents who have been certified by the County as eligible for Physician Services.

SECTION 6 -- Procedure for Providing Services.

- 6.01 Non-Emergency Services. The County will make a determination of the eligibility of prospective patients to receive Physician Services under this Agreement in the case of all requests for non-emergency care. Prior to providing non-emergency services under this Agreement, Dr. Apple shall require the prospective patient to present a valid Eligibility Document issued to the prospective patient by the County. Dr. Apple shall use his best efforts, such as by requesting an additional source of identification, to

verify that the person presenting an Eligibility Document or for whom an Eligibility Document is presented is the person listed on the document.

(a) Persons With Eligibility Documents. If the prospective patient presents a valid Eligibility Document, Dr. Apple shall provide Physician Services in accordance with the provisions of this Agreement and may bill the County for such services.

(b) Persons Without Eligibility Documents. If a prospective patient who does not possess an Eligibility Document requests non-emergency services but claims to be unable to pay for the services requested, Dr. Apple shall provide that person with an application form for assistance which the County will provide to Dr. Apple and shall refer that person to the County Health Services Department for processing of the application.

6.02 Emergency Services

(a) Persons With Eligibility Documents. If Dr. Apple provides emergency Physician Services to a patient who possesses a valid Eligibility Document, Dr. Apple shall use his best efforts, such as by requesting an additional source of documentation, to verify that the person presenting an Eligibility Document or for whom an Eligibility Document is presented is the person listed on the document. Dr. Apple may bill the County for the emergency services provided in accordance with the provisions of this Agreement.

(b) Persons Without Eligibility Documents -- Services Provided at Physician's Office.

(1) If Dr. Apple provides emergency Physician Services at his office to a patient who does not possess an Eligibility Document, but who he suspects may be eligible for such services, Dr. Apple shall:

(i) Provide the patient with an application form which the County will provide to Dr. Apple to be completed as much as possible by or on behalf of the patient and returned to Dr. Apple at the time that services are first provided;

(ii) Make an initial determination using the county's eligibility guidelines of whether the patient is an Eligible Resident at the time services are first provided;

(iii) If Dr. Apple determines on the basis of the information available that the patient may be an Eligible Resident, notify the County by telephone as soon as possible after determination is made that emergency services have been provided;

(iv) By mail postmarked not later than the third working day after the initial determination is made, notify the Collin County Health Services Department of the initial determination and provide such Department with any available information including the

completed or partially completed application on which the determination was based; and

(v) Cooperate with the County in determining if the patient is actually an Eligible Resident.

(2) The County shall determine whether the patient is eligible for Physician Services not later than the 14th day after receiving a completed application form including all needed verifications. The County may deny eligibility if the information received is insufficient for determining eligibility. If the County does not determine the patient's eligibility within the 14 day period after receipt of a completed application form including all needed verifications, the patient is considered to be an Eligible Resident for the purposes of this Agreement.

(c) Responsibility of Dr. Apple for Emergency Services.

(1) The provisions of this Section 6.02 relate solely to the County's obligation to pay for emergency Physician Services provided by Dr. Apple to Eligible Residents and in no way modify or abrogate any duty or obligation of Dr. Apple to provide Emergency Services.

(2) Dr. Apple agrees to inform Eligible Residents about the proper use of emergency services to help reduce the use of hospital emergency room facilities to obtain routine outpatient care.

(d) Laboratory and X-Ray Services. When requesting laboratory and x-ray services from North Texas Medical Center in McKinney, Texas, for or on behalf of an Eligible Resident,

Dr. Apple shall provide North Texas Medical Center with patient's name and Eligibility Document Number.

Section 7 -- Determination by Dr. Apple of Eligible Resident Status.

7.01 Use of County's Guidelines. In making the initial determination of a patient's Eligible Resident status as required in Section 6.02(b) of this Agreement, Dr. Apple shall use the eligibility guidelines used by the County pursuant to the Act and the rules promulgated thereunder for such purposes. In making such a determination of a patient's eligibility for Physician Services, Dr. Apple shall not incur any liability to the County or any other person except in the case of Dr. Apple's gross negligence or willful misconduct in determining such eligibility.

7.02 County to Provide Guidelines. The County agrees to provide Dr. Apple with written eligibility guidelines to be used by Dr. Apple in making the initial determination of a patient's eligibility for Physician Services. Any amendments to the County's eligibility guidelines shall be furnished to Dr. Apple no later than 30 days prior to the date that such amendments become effective.

Section 8 -- Compensation.

8.01 Payment Standard for Physician Services.

(a) Per Patient Fee. The County agrees to pay Dr. Apple for Physician Services (other than laboratory and x-ray services) provided under this Agreement at a rate of \$28 per patient visit for services provided by Dr. Apple at his office.

- (b) Laboratory and X-Ray Services. The County agrees to pay Dr. Apple for laboratory and x-ray services other than lab and x-ray services provided at North Texas Medical Center in McKinney, Texas, at Dr. Apple's cost of obtaining such services. Laboratory and x-ray services provided to Eligible Residents through North Texas Medical Center will be billed by North Texas Medical Center directly to the County.
- (c) Medical Procedures. The County agrees to pay Dr. Apple for necessary medical procedures (such as, but not limited to, surgery and treatment of lacerations) at a rate of 75% of Dr. Apple's usual and customary charge for such service. For the purposes of this Agreement, Dr. Apple's usual and customary charges for medical procedures shall be as set forth in the Schedule of Charges attached to this Agreement.

8.02 Limitations on County's Liability for Payment.

- (a) The County's liability for payment for Physician Services provided by Dr. Apple is subject to the limitations set forth in section 14.204 of the rules promulgated under the Act, as they now exist or may hereafter be amended, which include but are not limited to the provision that County liability for services is limited to (i) payment for a total of 30 days (cumulative) in a state fiscal year for hospital and/or skilled nursing facility care (per patient), or a combination of both, or a maximum payment of \$30,000 (per patient) for all mandatory services provided by

all providers to an eligible county resident, whichever comes first, and (ii) payment to physicians who certify in writing that the service provided was medically necessary.

(b) In computing the amounts Dr. Apple will bill County for Physician Services, he shall not include the following:

- (1) any amount for Physician Services provided to a person who receives or is entitled to receive assistance for Physician Services from a third party insurer or under a governmental program;
- (2) any amount for services provided to a person who is not an Eligible Resident or for services not covered by this agreement;
- (3) any amount for services provided ninety-six hours or more following notification to Dr. Apple by a professional standards review organization that the professional standards review organization disapproved the services;
- (4) any amount for services with respect to which the procedures set forth in Sections 6 and 7 were not followed by Dr. Apple;
- (5) any amounts for services provided by Dr. Apple in a period during which the person's Eligibility Document indicates that the person is ineligible for Physician Services;
- (6) any amount for services provided to a person after the County has notified Dr. Apple by telephone or

in writing that such person's Eligibility Document is no longer valid. A telephone notification that a person's Eligibility Document is no longer valid shall be confirmed in writing by the County within five (5) Working Days of the telephone notification. If a prospective patient presents an Eligibility Document which Dr. Apple has been notified by the County is invalid, he shall request the holder of the Eligibility Document to surrender it and shall send any such surrendered documents to the County.

8.03 Payor of Last Resort. The County is the payor of last resort.

Section 9 -- Billing.

9.01 Presentation of Bill. By the fifteenth day after the end of each month during the term of this Agreement, Dr. Apple shall submit to the Plan Administrator of the Foundation, a bill (the "Bill") for Physician Services provided to Eligible Residents under the terms of this Agreement during the preceding month. The Bill shall be itemized to identify the name, address, social security number and Eligibility Document number of each patient to whom services were provided; the types of services provided; the date or dates when provided, and such other information as the County may from time to time request. The County will not be liable for payment of Bills presented by Dr. Apple more than ninety (90) days after the date of service.

9.02 Approval of Bill. After review, the Plan Administrator shall submit his recommendations on the Bill to the County Auditor for audit, approval, and presentation to the Collin County Commissioners Court. The Bill will be presented to the next regularly scheduled meeting of the Commissioners Court after submission of the Bill to the County Auditor. Bills submitted must be approved by the County Auditor and the Commissioners Court prior to payment. In the event that any Bills submitted by Dr. Apple should contain charges that the County believes may not be eligible for reimbursement, the County shall pay the portion of the Bill that is not disputed. Payment of the approved portion of the Bill shall be made by the County within five (5) Working Days of the Commissioners Court meeting at which payment is approved.

9.03 Disputed Bills. If the County determines, in good faith, that a patient for whom Dr. Apple has billed the County was not an Eligible Resident pursuant to this Agreement or that Services billed are not covered by this Agreement, the Plan Administrator shall notify Dr. Apple of this determination within thirty (30) days of the presentation of the Bill.

Within twenty (20) days after the end of each calendar quarter, Dr. Apple, or his designee, and the Plan Administrator shall meet to negotiate the amounts in dispute. Amounts agreed upon shall be presented and paid as provided for in this Section. Amounts still in dispute thirty (30) days after the first meeting between Dr. Apple and the Plan Administrator shall be subject to binding

arbitration between the parties. The arbitrator shall be selected from a panel selected by the American Arbitration Association; the arbitration shall be handled under that organization's rules. Attorney's fees and other appropriate sanctions may be awarded to the prevailing party if the arbitrator determines that the other party did not act in good faith with respect to the disputed claim. The parties may mutually agree to a different method of selecting an arbitrator and to a different procedure for conducting the arbitration.

9.04 Disallowance of Bills. Except as provided in this Section and Sections 6 and 8, and except in cases of fraud, misrepresentation or clerical error, the County shall have the right to disallow payments to Dr. Apple only if the patient for whom Dr. Apple submits a Bill is not an Eligible Resident as that term is defined in this Agreement or if the services provided are not covered by this Agreement.

9.05 Refunds. If any person to whom services have been provided under this Agreement is later determined to be eligible for participation in the Medicaid or Medicare programs or for coverage by any other third-party payor, amounts received by Dr. Apple from the County for services provided to that person since the date that the person is eligible for Medicaid, Medicare, or third-party coverage shall be refunded to the County.

Section 10 -- Availability of Records.

10.01 Review by County. Dr. Apple agrees to maintain and make available for inspection by the County upon request,

consistent with personal privacy and subject to the limitation of state law, any and all records necessary to document Dr. Apple's provision of services' to Eligible Residents under this Agreement. The County and Dr. Apple agree to maintain the confidentiality of household information. To the extent possible, the County shall designate one of its employees or agents to inspect such records and such inspections shall take place as scheduled by the County and Dr. Apple in advance.

10.02 Review by State or Federal Agencies. The records described in Section 10.01 above shall be retained by Dr. Apple for a period of four (4) years from the date that service is provided and shall be made available for inspection and audit by the Texas Department of Human Resources in that Department's determination of the County's eligibility for financial assistance under the Act and to the extent required by state or federal law imposed on Dr. Apple, the Foundation, or Collin County.

Section 11 -- Insurance.

The parties agree that Dr. Apple shall be an independent contractor and not an employee of the County under this Agreement and that Dr. Apple shall purchase and maintain such professional liability insurance as will protect Dr. Apple from any claims arising out of or incident to the services provided by Dr. Apple under the provisions of this Agreement.

Section 12 -- Nondiscrimination Policy

Dr. Apple agrees to make Physician Services available to persons eligible to receive such services under this Agreement

without discrimination on the grounds of race, color, national origin, or creed.

Section 13 -- Legal Action by Dr. Apple.

This Agreement shall not restrict in any way Dr. Apple's right to pursue any recourse he may have, including, but not limited to, legal action against any persons who are not Eligible Residents for amounts owed to Dr. Apple as the result of Physician Services provided by Dr. Apple.

Section 14 -- Amendment.

This Agreement shall not be amended or modified other than in a written agreement signed by all parties hereto.

Section 15 -- Controlling Law.

This Agreement shall be deemed to be made under, governed by, and construed in accordance with, the laws of the State of Texas.

Section 16 -- Notices.

All written communications provided for hereunder shall be deemed to be given when delivered in person or deposited in the United States Mail, First Class, Registered or Certified, Return Receipt Requested, with proper postage prepaid addressed as follows:

(a) If to Dr. Apple, address to:

George W. Apple, Jr., M.D.
P. O. Box 860158
Plano, Texas 75086

(b) If to the County, address to:

County Judge
Collin County Courthouse
210 S. McDonald
McKinney, Texas 75069

with a copy to:

Plan Administrator
Collin County Health Care Foundation
1710 N. McDonald
McKinney, Texas 75069

(c) if to Foundation:

Plan Administrator
Collin County Health Care Foundation
1710 N. McDonald
McKinney, Texas 75069

with a copy to:

County Judge
Collin County Courthouse
210 S McDonald
McKinney, Texas 75069

or to such other address as may from time to time be specified in a notice given as provided in this Section 16.

Section 17 -- Captions.

The headings to the various sections of this Agreement have been inserted for convenient reference only and shall not modify, define, limit, or expand the express provisions of this Agreement.

Section 18 -- Counterparts.

This Agreement may be executed in counterparts, each of which, when taken separately, shall be deemed to be an original.

Section 19 -- Assignability.

Neither this Agreement nor any duties or obligations hereunder shall be assignable by Dr. Apple without the prior written consent of the County.

Section 20 -- Obligations of Condition.

All obligations of each party under this Agreement are conditions to further performance of the other party's continued performance of its obligations under the Agreement.

Section 21 -- Exclusive Right to Enforce this Agreement.

The County and Dr. Apple have the exclusive right to bring suit to enforce this Agreement and no other party may bring suit, as a third party beneficiary or otherwise, to enforce this Agreement.

Section 22 -- Compliance With Act and Regulations.

Dr. Apple agrees to comply with all requirements of the Act and any applicable regulations promulgated thereunder and to cooperate with the County in order to facilitate the County's compliance with such requirements.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

George W. Apple, Jr., M.D.

By: *George W. Apple, Jr.*

Title: _____

COUNTY

Collin County, Texas

By: *Wm J Roberts*

Title: *County Judge*